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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,819	11/20/2000	Alfred D. Ducharme	C1104/7061	9031

23628 7590 12/04/2003

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EXAMINER

LEE, Y MY QUACH

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/716,819	DUCHARME ET AL.	
	Examiner	Art Unit	
	Y Quach Lee	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,16-19,21,22,25-33 and 66-298 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,16-19,21,22,25-33 and 66-298 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>next page</u> | 6) <input type="checkbox"/> Other: _____ |

Continuation Sheet (PTOL-326)

Application No.

IDS of 10/29/03(3), 9/22/03(1), 8/25/03(1), 4/15/03(1), 3/10/03(1), 11/7/02(1)

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed August 25, 2003 have been fully considered.
2. This application is in condition for allowance except for the following formal matters:
3. The IDS of October 7, 2002 (first listed reference to Belliveau) has not been provided and as such has not been considered.
4. A copy of the listed reference WO00/14705 of IDS of November 7, 2002 has not been provided. The case No. 6:02-cv-270-ORL-19JGG ... Plaintiff's Answer to Counterclaims and Case No. 6:02-cv-270-ORL-19JGG ... Plaintiff's Answer to Defendant's First set of Interrogatories w/Exhibit 1 of the IDS of October 29, 2003 have not been provided. 37 CFR 1.98(a)(2) states that any information disclosure statement filed under 37 CFR 1.97 shall include a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. These references have not been considered. Also, 37 CFR 1.98(a)(3) states that any information disclosure statement filed under 37 CFR 1.97 shall include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language.
5. The listed references DE9414689.6, DE29620583, DE8902905.4, DE29607270, DE9414688.8, DE205307, JP2247688, JP643830, Avitec licht Design '89-90, pp. 1-4 and Dr. Ing, Ulrich Tietze pp 566-569 of the IDS of October 29, 2003 have not been considered because explanation of the relevance of these references listed that are not in the English language has not been provided. 37 CFR 1.98(a)(3) states that any information disclosure statement filed under 37 CFR 1.97 shall include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. These references have been placed in the application file, but the information referred to therein has not been considered.

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6. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

7. Claims 1, 16 to 19, 21, 22, 25 to 33 and 66 to 298 are allowed.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Y Quach Lee whose telephone number is 703-308-1939. The examiner can normally be reached on Tuesday and Thursday from 8:30 am to 4:30 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Y. Q.
November 30, 2003



Y Quach Lee
Patent Examiner
Art Unit 2875